



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/593,429	06/03/2008	Tamir Tirosh	66599-0012	9888
10291	7590	09/30/2011	EXAMINER	
RADER, FISHMAN & GRAUER PLLC 39533 WOODWARD AVENUE SUITE 140 BLOOMFIELD HILLS, MI 48304-0610				ELOSHWAY, NIKI MARINA
3728		ART UNIT		PAPER NUMBER
			NOTIFICATION DATE	
			DELIVERY MODE	
			09/30/2011	
			ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentmail@raderfishman.com
amd@raderfishman.com
bhreceptionist@raderfishman.com

Office Action Summary	Application No.	Applicant(s)	
	10/593,429	TIROSH ET AL.	
	Examiner	Art Unit	
	NIKI ELOSHWAY	3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 July 2011.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.
- 4) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) Claim(s) 1,2,24, 29-32,34-37 and 40-42 is/are pending in the application.
 - 5a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 6) Claim(s) _____ is/are allowed.
- 7) Claim(s) 1,2,24,29-32,34-37 and 40-42 is/are rejected.
- 8) Claim(s) _____ is/are objected to.
- 9) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 10) The specification is objected to by the Examiner.
- 11) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 24, 29, 31, 32, 34-37 and 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nachumi (U.S. 2006/0124573) in view of Pyun (U.S. 2004/0089626 A1). Nachumi teaches a vent system, shown in figure 2, for a drinking container 101. The vent system comprises a single member closure member 105 adapted and configured for coupling to an open top of the drinking container 101 via 102. The closure member includes an air passage 107, 106 there through to allow the passage of air from outside the container to an interior of the container (paragraph [0022]). The at least one air vent tube 107 with more than one air vent tube opening (4 shown in outer periphery in figure 5) in a periphery of said closure member. The more than one air vent tube opening are operationally connected to said air passage. The connecting element is element 106. The liquid opening is element 120. The anti-bubble tube is element 106. the upper section of the anti-bubble tube surrounds the valve (see paragraph below), and the lower section of the anti-bubble tube is the remaining portion of the tube. The liquid outlet member is element 103, and the collar is element 102.

Nachumi discloses the claimed invention except for the one-way valve. Pyun teaches that it is known to provide a vent tube with a one-way valve (see element 13 in figure 25). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the vent system of Nachumi with the one-way valve of Pyun, in order to ensure that liquid does not accidentally enter the vent tube.

Regarding claims 34 and 35, the modified vent system of Nachumi discloses the claimed invention except for the valve being separable from the closure member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified vent system of Nachumi with the valve being separable, in order to allow for replacement if it becomes damaged, and since it has been held that it is obvious to make an element separable if it were considered desirable to have the element removed. *In re Dulberg*, 289 F.2d 522, 523, 129 USPQ 348, 349 (CCPA 1961). The gripping portion of the valve can be considered any portion of the valve adapted to be gripped by the user, including the lower downwardly extending portion of the valve.

3. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nachumi (U.S. 2006/0124573) in view of Pyun (U.S. 2004/0089626 A1), as applied to claim 29, above, and further in view of Webb et al. (U.S. 7,204,380). The modified vent system of Nachumi teaches the claimed invention except for the heat sensor. Webb et al. teach that it is known to provide a drinking container with a heat sensor. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container of Nachumi with a heat sensor, as taught by Webb et al., in order to indicate the temperature to the user to reduce the risk of burning one's mouth.

Response to Arguments

4. Applicant's arguments filed July 5, 2011 have been fully considered but they are not persuasive. Applicant's arguments with respect to the amended claims have been considered but are moot in view of the new ground(s) of rejection. The new grounds of rejection were necessitated by the amendment filed July 5, 2011.

5. The newly applied, but previously cited, reference of Nachumi teaches a single member closure member 105. Nachumi also teaches four openings in the periphery of the closure 104 (see figure 5). The

Art Unit: 3728

one-way valve is taught by the secondary reference of Pyun, specifically, element 13 of Pyun is a one-way valve.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NIKI ELOSHWAY whose telephone number is (571)272-4538. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3728

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Niki M. Eloshtay/
Niki M. Eloshtay
Examiner
Art Unit 3728

nme

/Mickey Yu/
Supervisory Patent Examiner, Art Unit 3728